

Remarks

Claims 10-30 have been cancelled.

Claims 1-9 and 30 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The term "about" has been deleted from claim 1 to overcome this rejection.

Claim 1 has been amended to recite the temperature of the hot wort as being at least 170°F. This new limitation has a basis at paragraph [0053] of the specification.

New claim 31 includes the limitations of original claims 1 and 2 and further includes the limitation that the wood chips are removed from the wort along with trub. This new limitation has a basis at paragraph [0045] of the specification. New claims 32-36 correspond to original claims 5-9.

New claim 37 includes the limitations of original claims 1, 2 and 4. New claims 38-42 correspond to original claims 5-9.

The previous claims were rejected under 35 U.S.C. § 103(a) as being obvious over Maloney (people.cornell.edu/page/blm10/blort/Drake.htm).

Turning now to Maloney, there is described a method for making beer "wherein the wort would be cleared with the aid of oak boughs added to steep for a time and removed before the boil". Therefore, in the Maloney process, the "oak bough" (branch) is added to the wort prior to boil and is removed before the boil. The "oak bough" in the Maloney process is being added to facilitate clarification of the wort prior to boiling.

The Applicant notes the citation of the meaning of "steep" from the Master Dictionary of Food & Wine in the Office Action. Also, the comments on typical mashing temperatures are duly noted.

In order to more clearly distinguish the invention of claim 1 (and claims 2-9 that depend thereon), claim 1 has been amended to recite the temperature of the hot wort as at least 170°F. It is conceded that the temperature given in previous claim 1 (145°F) would be about a typical mashing temperature. See, for example, line 3 of paragraph 1 of Maloney. However, the temperature given in amended claim 1 (170°F) is well above an acceptable mashing temperature. See, for example, column 1, lines 46-58 of attached U.S. Patent No. 5,021,246 which discusses the problems associated with a mashing temperature as high as 169°F.

Given this teaching away from mashing temperatures of at least 170°F and Maloney's own disclosure in paragraph 1 of a mashing temperature of 153°F, it is submitted that although Maloney describes a "steeping" process, the wort in Maloney would actually be less than 170°F. Thus, it is respectfully submitted that nothing in Maloney teaches or suggests adding wood chips to hot wort having the temperature (at least 170°F) recited in amended claim 1. Accordingly, it is believed that amended claim 1 (and claims 2-9 that depend thereon) are not obvious over Maloney.

Both new claim 31 and new claim 37 make it clear that the wood chips are removed after boiling in the brew kettle. Claim 31 recites wood chip removal as occurring along with trub. It is well known that trub is removed from wort after boiling. Claim 37 recites wood chip removal as occurring after the fermentation step, which is also after the boiling of the wort.

Nothing in Maloney suggests boiling the wood chips in the wort. It is true that Maloney describes "steeping" the oak boughs. However, this steeping occurs after mashing and before boiling. Furthermore, from U.S. Patent No. 5,021,246, it is well

known that when mash is subjected to temperatures near boiling, subsequent fermentation of the wort is significantly adversely affected. Thus, the wort in Maloney would be nowhere near boiling temperature after mashing. It is the boiling temperatures that allow the wort in the present invention to absorb certain flavor active volatiles from the wood chips.

Accordingly, it is believed that new claim 31 (and claims 32-36 that depend thereon) and new claim 37 (and claims 38-42 that depend thereon) are not obvious over Maloney.

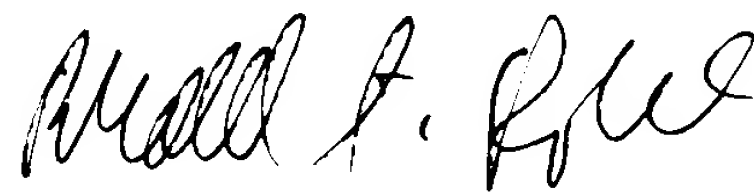
Conclusion

In view of the amendments and remarks above, it is now believed that the application is in condition for allowance. However, the Examiner is invited to contact the undersigned attorney by telephone if doing so would expedite the allowance of this application. A fee sheet and extension request have been attached. If any other fees are deemed necessary, please charge Deposit Account No. 17-0055 accordingly.

Respectfully submitted,

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